

DEC 18 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VAZGEN BAGHDASARYAN; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-74489

Agency No. A75-711-400
A75-711-401

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 3, 2007**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Vazgen Baghdasaryan, a native of Iran and citizen of Armenia, and his wife,
Margarita Gasaryan, a native and citizen of Armenia, petition for review of the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, petitioners' request for oral argument is denied.

Board of Immigration Appeals' ("BIA") order affirming the Immigration Judge's ("IJ") denial of their application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have jurisdiction pursuant to 8 U.S.C. § 1252. Where it is unclear whether the BIA conducted a de novo review, we look to the IJ's decision as a guide. *See Avetova-Elisseva v. INS*, 213 F.3d 1192, 1197 (9th Cir. 2000). We deny the petition in part, and dismiss in part.

Substantial evidence supports the IJ's credibility finding regarding Baghdasaryan's role in his volunteer organization. This inconsistency goes to the heart of his claim. *See Li v. Ashcroft*, 378 F.3d 959, 963-64 (9th Cir. 2004). In the absence of credible evidence, Baghdasaryan has failed to show eligibility for asylum or withholding. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

We dismiss any challenge to Baghdasaryan's CAT claim because he failed to raise it before the BIA. *See Zara v. Ashcroft*, 383 F.3d 927, 930-31 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.